THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.21222 of 2006

Date: 10.04.2007

Between:

Kum. Komireddy Nikhila.

....Petitioner

And

Pamarru Gram Panchayt and another.

....Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.21222 of 2006

O R D E R:

The petitioner applied to the Gram Panchayat, Pamarru, first respondent herein, for sanction of a plan, to construct a building, on a plot of land in R.S.No.286/2B of Pamarru Village and Gram Panchayat, Krishana District. The Gram Panchayat examined the same at its meeting held on 16.02.2006 and accorded permission. Consequential proceedings were issued by the Panchayat Secretary on 20.03.2006. The petitioner is said to have completed the construction.

The petitioner submitted an application to the Assistant Divisional Engineer (Operation), A.P.S.P.D.C.L., Pamarru, second respondent herein, for providing power supply. Her request was not acceded to, on the basis of a letter, dated 28.09.2006, addressed by the then Panchayat Secretary. Through the said letter, the Panchayat Secretary informed the second respondent that the construction undertaken by the petitioner is not proper and proceedings, dated 06.05.2006, were issued,

directing stoppage of construction, and accordingly, requested the second respondent, not to release the power supply. The said proceedings are challenged in this writ petition.

The petitioner states that she has not been issued any notice either of the alleged cancellation of permission, or in any other respect, by the Gram Panchayat or Panchayat Secretary. She contends that once the permission is accorded by the Gram Panchayat, the Panchayat Secretary has no power or competence, to cancel the same, that too, without issuing notice, and there is absolutely no basis for the first respondent in addressing letter, dated 28.09.2006, directing stoppage of power supply.

The Gram Panchayat, Pamarru, filed a counter affidavit. It is stated that the permission obtained by the petitioner is not proper, inasmuch as fraudulent documents were filed, for obtaining the same. It is also stated that the then Panchayat Secretary has revoked the permission, since it was found to be illegal.

The third respondent, who got himself impleaded in the Writ Petition, is distantly related to the petitioner. In the affidavit filed by him, it is stated that the petitioner filed concocted documents before the Gram Panchayat and obtained permission, by misusing the position held by her grand mother, who was functioning as Sarpanch, at the

relevant point of time. It is stated that the impugned proceedings do not suffer from any illegality or infirmity.

Heard the learned counsel for the petitioner, the learned Standing Counsel for the first respondent-Gram Panchayat, the learned Standing Counsel for the second respondent-A.P.S.P.D.C.L., and the learned counsel for the third respondent.

It is not in dispute that the petitioner was granted construction permission, vide proceedings, dated 20.03.2006 by the Gram Panchayat. This was preceded by the resolution passed by Gram Panchayat at its meeting held on 16.02.2006. The third respondent is said to have submitted representation against this permission. In case, the permission granted to the petitioner suffers from any illegality or infirmity, an appeal could have been preferred to an appellate authority. Further, if the permission is tainted with any factors, such as, fraud, misrepresentation, the Gram Panchayat can itself review the decision and cancel the permission. The Panchayat Secretary is only an employee, entrusted with the functions of carrying on the mandate of the Gram Panchayat. Once the resolution is passed by the Gram Panchayat, to grant permission, the cancellation thereof can be done by the Gram Panchayat alone, or an appellate authority.

In the instant case, the then incumbent, by name, Purna Chandra Rao, issued proceedings, dated 06.05.2006. In the first paragraph of the order, he declared that the Will relied upon by the petitioner is illegal and unenforceable and thereby, the application submitted by her is improper. In the second paragraph, he observed that the application of the petitioner was not in the agenda of the Gram Panchayat meeting held on 16.02.2006 and in that view of the matter, the resolution passed by the Gram Panchayat, according permission, is illegal. In the third paragraph, he ordered revocation of the permission and directed the petitioner to stop the construction. Without stopping there, he issued the impugned proceedings, requiring the second respondent, not to release the power supply.

This Court directed the said Secretary to appear before this Court and offer explanation. He had appeared and stated that he is authorised in law, to cancel the permission, if it is otherwise illegal. He places reliance upon Rule 8 of the Rules in G.O.Ms.No.67.

The action of the then Panchayat Secretary in issuing the proceedings, dated 06.05.2006, and the impugned letter, dated 28.09.2006, is despicable, and reflects lack of discipline on his part. Even an authority, who is vested with the power to revoke a licence, is under obligation to issue notice to the affected party. The

Panchayat Secretary had assumed the roles of civil Court, to declare the validity of Will, that of an appellate authority, over the Gram Panchayat, to decide the validity of the resolution, and ultimately, of an authority, to cancel the permission. The curious part of the matter is that he took all these steps without any reference to the Gram Panchayat or the petitioner. The impugned order is the result of his illegality. It cannot be sustained in law or on facts.

Hence, the Writ Petition is allowed, as prayed for. There shall be no order as to costs.

10.04.2007

JSU